UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Elias ALCALA-Garcia,** Defendant	Magistrate Docket No. '08 MJ 0476 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **February 17, 2008,** within the Southern District of California, defendant, **Elias ALCALA-Garcia,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 19th DAY OF **February 2008.**

William McCurine, Jr.
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Elias ALCALA-Garcia

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On February 17, 2008, Border Patrol Agent M. Wiesner was assigned to land orientation training with the Chula Vista Border Patrol Field Training Unit when he responded to a Bureau radio call from Customs and Border Protection Air Operations, also known as "Omaha," of suspected undocumented illegal aliens in an area known as the "BLM Scoot Trail." "The BLM Scoot Trail" is located in the Chula Vista Area of Operations and is located approximately three miles east of the Otay Mesa, California Port of Entry and approximately seven hundred yards north of the United States/Mexico International Boundary.

Agent Wiesner arrived in the vicinity of "The BLM Scoot Trail", and responded to the direction of Omaha and at approximately 9:50 a.m., Agent Wiesner located three individuals lying in some heavy brush. Agent Wiesner approached the individuals and identified himself as a U.S. Border Patrol Agent and asked each subject of which country they were citizens and nationals. All three subjects replied "Mexico". Agent Wiesner also asked each subject if they had any immigration documents that allow them to be or remain in the United States legally. All three subjects, including one later identified as the defendant **Elias ALCALA-Garcia**, replied "No." At approximately 10:00 a.m., Agent Wiesner, placed the three subjects under arrest and had them transported to the Chula Vista Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on or about **April 18, 2007** through **Laredo, TX.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

Executed on February 18, 2008 at 9:30 a.m.

Terri L. Dimolios
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **February 17, 2008,** in violation of Title **8**, United States Code, Section **1326.**

William McCurine, Jr.
United States Magistrate Judge

2/18/08, 1:31 pm
Date/Time